

APR 26 2018

David J. Bradley, Clerk of Court

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS

UNITED STATES OF AMERICA

V.

David Trejo LEAL

## CRIMINAL COMPLAINT

Case Number: 2:18mj 530

I, the undersigned complainant state that the following is true and correct to the best of my knowledge and belief. On or about April 25, 2018 in Brooks County, in the

Southern District of Texas defendant, **David Trejo LEAL**

did knowingly or in a reckless disregard of the fact that an alien had come to, entered, or remained in the United States in violation of law, transport, or move or attempt to transport or move such alien within the United States by means of transportation or otherwise, in furtherance of such violation of law

in violation of Title 8 United States Code, Section(s) 1324  
I further state that I am a(n) Border Patrol Agent and that this complaint is based on the  
following facts:  
Official Title

See Attached Affidavit of U.S. Border Patrol Agent

Jaime Trevino

Continued on the attached sheet and made a part of this complaint:

☒ Yes ☐ No

Sworn to before me and signed in my presence, and probable cause found on the:

J. Trevino  
Signature of Complainant  
**Jaime Trevino**  
Printed Name of Complainant

April 26, 2018  
Date  
**B. Janice Ellington U.S. Magistrate Judge**  
Name and Title of Judicial Officer

at

Corpus Christi, Texas  
City and State  
B. Janice Ellington  
Signature of Judicial Officer

## **AFFIDAVIT**

The information contained in this report/affidavit is based upon my personal participation in the investigation, which included, but is not limited to information relayed to me by other agents and officers participating in the investigation.

### **SYNOPSIS:**

On April 25, 2018, David Trejo Leal was arrested at the United States Border Patrol Checkpoint near Falfurrias, Texas for attempting to smuggle two undocumented aliens (UDA's) concealed in the cab of the tractor he was driving.

### **FACTS/DETAILS:**

On April 25, 2018, David Trejo LEAL was encountered as the driver of a red Freightliner Tractor at the United States Border Patrol checkpoint near Falfurrias, Texas. When LEAL stopped at the primary inspection area, Border Patrol Agent (BPA) Rocha III began an immigration inspection of LEAL and determined LEAL was a United States citizen. LEAL also provided a driver's license at the request of BPA Rocha III. BPA Rocha then asked LEAL for consent to conduct an X-ray exam of the tractor. LEAL granted consent and was directed to the backscatter area.

Once the tractor-trailer was in the backscatter area, BPA J. Mora utilizing the ZBF backscatter began scanning the passenger side of the tractor. BPA J. Mora noticed an anomaly resembling a person sitting down on the floor of the sleeper area. BPA J. Mora immediately stopped the scan and notified Agents to verify the anomaly. BPA Velasquez searched the closet on the passenger side and discovered a male subject concealed inside (Orlando JIMENEZ-Jimenez). A search of the rest of the cab revealed a second subject concealed in the closet behind the driver's seat (Omar MARCIAL-Uriostegui). Both subjects were determined to be citizens and nationals of Mexico illegally present in the United States. All the subjects were placed under arrest and taken into the checkpoint for further processing.

### **MIRANDA RIGHTS:**

All subjects were read their Miranda Rights in their preferred language. All subjects signed the Miranda Rights form stating that they understood their rights. All subjects agreed to answer questions without an attorney present.

### **PRINCIPAL STATEMENT (David Trejo LEAL)**

LEAL stated on April 24 (2018) at approximately 3:00 p.m. he received a text message from his dispatch regarding a load for him to pick up. LEAL stated he went to pick up a tractor trailer from RG Produce in Weslaco, Texas at approximately 4:30 p.m. LEAL stated that he went on to pick up at four different locations in Pharr and San Juan, Texas. LEAL stated that he then returned to RG Produce to change tractors due to the electronic log in the first tractor not functioning. LEAL stated after changing tractors, he returns home for a shower and clothes before proceeding to the Loves truck stop at approximately 2:25 a.m. LEAL states that he was inside the store for approximately 15 minutes before returning to his tractor and proceeding northbound. LEAL claims he had no knowledge of the two subjects hiding in the cab of his vehicle.

**NOTE:** LEAL has a prior administrative alien smuggling case from August 15, 2015

**MATERIAL WITNESS STATEMENTS (Omar MARCIAL-Uriostegui)**

MARCIAL stated that he and the other alien, JIMENEZ, crossed into the United States together near Roma, Texas. MARCIAL stated after crossing into the United States they were taken to multiple stash houses and that on April 25, a caretaker took them to a gas station where they were directed by this caretaker to get into a red tractor trailer parked on the street. MARCIAL stated that the caretaker informed them that after crossing through the checkpoint, the driver of the tractor trailer would let them out of the closets and allow them to contact their families. MARCIAL stated that JIMENEZ opened the door to the tractor and got into the passenger side closet while MARCIAL got into the driver's side closet. MARCIA stated there was no one in the tractor when they got in and that they were in the closets for approximately 15 minutes before he heard the driver get into the truck and felt the tractor start to move. MARCIAL stated they were on the road for approximately an hour and a half before arriving at the checkpoint and the truck did not make any stops once they left. MARCIAL stated that he was uncomfortable and he was not provided any food or water while in the truck.

**Follow-up interview:**

BPA's E. Cabello and J. Trevino interviewed MARCIAL at the Corpus Christi Border Patrol Station on April 26, 2018. MARCIAL was reminded of his rights and was willing to provide a statement. MARCIAL was asked specifically if the driver of the tractor-trailer had given any instructions or had communicated with him directly. MARCIAL stated that when they arrived at the checkpoint he could hear the driver talking to an Agent and saw what appeared to be a flashlight laminate the cab. MARCIAL stated the tractor began to move then stopped again shortly. MARCIAL stated he heard the driver say, "they are going to use the laser" in the Spanish language. I short while later, an Agent found him inside the closet.

**MATERIAL WITNESS STATEMENT (Orlando JIMENEZ-Jimenez)**

Orlando JIMENEZ-Jimenez stated that he and MARCIAL crossed into the United States near Roma, Texas and were taken to multiple stash houses. JIMENEZ stated that on April 25 at approximately 2:00 a.m. an older Hispanic male in a grey four door car took them to a gas station where he directed JIMENEZ and MARCIAL to get into a red tractor trailer that was parked on the street near the gas station. JIMENEZ stated that he opened the door to the tractor and both he and MARCIAL climbed into the tractor and got into the closets. JIMENEZ stated the tractor was turned on, but no one was in it when they got in. JIMENEZ stated that approximately 15 minutes after getting in, he heard the driver get inside and the tractor began to move. JIMENEZ stated he never spoke to the driver, but would open the closet door to get air. JIMENEZ stated they were on the road for approximately an hour and a half before arriving at the checkpoint and the tractor did not make any stops along the way. JIMENEZ stated that he was afraid and that he was not provided with any food or water.

**Follow-up interview:**

BPA's E. Cabello and J. Trevino interviewed JIMENEZ at the Corpus Christi Border Patrol Station on April 26, 2018. JIMENEZ was reminded of his rights and was willing to provide a statement. JIMENEZ was asked specifically if the driver of the tractor-trailer had given any instructions or had communicated with him directly. JIMENEZ stated when they arrived at the

checkpoint he could hear the driver talking with someone but could not make out what was being said. JIMENEZ stated the tractor stated to move then stop again. JIMENEZ stated that the driver said something in Spanish but could not understand what was said.

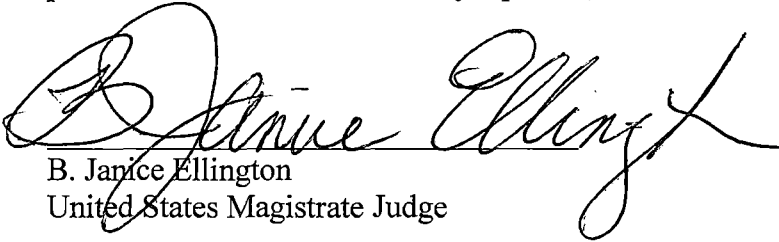
**DISPOSITION:**

The facts of this case were presented to Assistant United States Attorney Jeffrey Miller who accepted David Trejo LEAL for prosecution of 8 USC 1324, Alien Smuggling. Omar MARCIAL-Uriostegui and Orlando JIMENEZ-Jimenez will be held as Material Witnesses.



Jaime Trevino  
Border Patrol Agent

Sworn to before me, signed in my presence, and  
probable cause found on this day April 26, 2018.



B. Janice Ellington  
United States Magistrate Judge